



## EXPARTE NOTICE

December 7, 2009

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: GN Docket Nos. 09-47, 09-51, 09-137 and RM-11358

Dear Ms. Dortch:

Granite Telecommunications, LLC ("Granite"), a nationwide competitive provider of advanced telecommunications services to enterprise subscribers, hereby expresses its enthusiastic support and endorsement of COMPTEL's proposed rule changes and pricing guidelines, governing incumbent local exchange carrier ("ILEC") copper loop network retirement, as an effective means to achieve national broadband objectives.<sup>1</sup> Granite is the country's premier provider of nationwide telecommunications service to multi-location business customers currently servicing 66 of the nation's Fortune 100 companies, as well as various governmental entities including the United States Postal Service. At this crucial time when network investment and broadband deployment are at the heart of national telecommunications policy, Granite urges Commission adoption of COMPTEL's proposal to ensure that "retired" copper network is preserved and reusable for competitive broadband services.

Issues surrounding copper loop retirement while certainly not new, necessitate a "fresh look," now in the context of promoting broadband deployment, network investment, and the renewed sense of urgency for specific action that will realize the promise of ubiquitous broadband service in the U.S. COMPTEL's proposal for competitive access to retired ILEC loops takes a significant step in that direction and should be adopted.

Existing copper networks represent a valuable rate-payer subsidized, and virtually ubiquitous resource that can be almost immediately leveraged into providing broadband services through new technology<sup>2</sup> by entities other than incumbent carriers, but only if the Commission acts to preserve it. Carriers such as Granite are ready to undertake their own investments into network technology necessary to avail themselves of ILEC copper

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<sup>1</sup> See Letter from Karen Reidy, COMPTEL, to Marlene Dortch Secretary, Federal Communications Commission, GN Docket Nos. 09-47, 09-51, 09-137 and RM-11358 (December 7, 2009) ["COMPTEL proposal"].

<sup>2</sup> *Id.* at 4.

network that incumbent carriers increasingly see as little more than scrap, in order to meet the increasing broadband demand of their commercial subscribers.<sup>3</sup>

Competitive carrier access to copper plant is also critical toward promoting competitive alternatives. As ILECs increasingly retire copper plant, in the absence of any obligation to make such plant available to competitors, competitive carriers who have not yet deployed networks in the areas served by retired plant are effectively precluded from providing competitive alternatives and thereby shut out of the market altogether, to the intended benefit of the ILECs. Granite has experienced specific cases where our customers were denied service or had service removed due to copper retirement, forcing our customers with no alternative but to return to the ILEC for service, thus removing the competitive element to telecommunications services and ultimately harming end user customers. This is diametrically opposed to the underpinnings of economic and broadband deployment policy and should serve as yet another key reason for adopting the COMPTTEL proposal.<sup>4</sup>

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<sup>3</sup> Granite is highly sensitive to its subscribers' demand for broadband services, and the potential for existing copper plant to meet that demand, as the Office of Advocacy ("Advocacy") of the U.S. Small Business Administration has advised the Commission.

While Advocacy commends the Commission's dedication to the President's Broadband Policy Initiative, we believe the heightened pace of copper retirement warrants further economic analysis. Such an analysis may show that allowing companies to continue to develop and utilize the copper network will further the Administration's broadband policy goals. ...In the U.S. telecommunications sector, small businesses have become increasingly dynamic by developing new technologies based on the legacy copper network. Small telecommunications providers have been able to offer competitive packages to consumers, rivaling the cable platforms offered in their regions. These and similar offerings have created a wide range of telecom choices for small business customers. The retirement of copper will eliminate these technologies, and any new copper-based technologies currently under development. Small business consumers of telecom services fear that their telecom services will become more expensive.

See Letter from Thomas M. Sullivan, Chief Counsel for Advocacy and Cheryl M. Johns, Assistant Chief Counsel for Telecommunications, Office of Advocacy, U.S. Small Business Administration, to Honorable Kevin J. Martin, (former) Chairman, Federal Communications Commission regarding the Commission's compliance with the Regulatory Flexibility Act (May 10, 2007). Available at [http://www.sba.gov/advo/laws/comments/fcc07\\_0510.pdf](http://www.sba.gov/advo/laws/comments/fcc07_0510.pdf)

<sup>4</sup> A prime example was recently highlighted in Verizon's announcement to retire copper plant in Alexandria, Virginia, a city Granite services, as addressed by *xChange Magazine*, *Verizon Report Re-Awakens Copper Retirement Questions* by Kelly Teal, *xChange Magazine* (November 24, 2009). "John Heitmann, a partner in Kelley Drye & Warren LLP's telecommunications practice, summed up the trouble in a 2007 letter to the U.S. Department of Justice. 'Until the current copper facility retirement rules are changed, CLECs will continue to lose a ready means of providing broadband services and consumers will suffer from the inability to obtain those services on a competitive basis.'" See <http://www.xchangemag.com/articles/verizon-report-copper-retirement-debate.html>.

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At a time when all avenues for promoting investment and broadband deployment should be pursued, COMPTEL's well-reasoned and amply-supported proposal should now be adopted. COMPTEL's proposal significantly contributes to key broadband and economic goals by unleashing smaller competitive interests to increase investment in network infrastructure and rapidly expand broadband availability, while fairly compensating incumbents for existing network that would otherwise remain idle.

The competitive telecommunications industry has a well-established legacy for bringing the benefits of desirable, innovative services to the public. Granite is no exception, as our subscribers can well attest. Competitive interests will remain meaningful contributors to our country's investment and broadband deployment goals if further accorded the opportunity to do so through adoption of COMPTEL's proposal.

Respectfully submitted,

GRANITE TELECOMMUNICATIONS, LLC

A handwritten signature in black ink, appearing to read 'S. Kline', with a long, sweeping horizontal line extending to the right.

Samuel J. Kline  
Vice President - Strategic Initiatives

Cc (via e-mai):      Robert Curtis  
                             Thomas Koutsky  
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                             David Isenberg  
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